

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 577 of 1983

with

FIRST APPEAL No 578 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT KAMDAR SAHKARI MANDALI LTD.

Versus

TAJUBEN G. SIHOL

Appearance:

1. First Appeal No. 577 of 1983
MR RAJNI H MEHTA for Petitioners
MR PS CHAMPANERI for Respondent No. 1
SERVED for Respondent No. 2
2. First Appeal No 578 of 1983
MR RAJNI H MEHTA for Petitioners
SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE N.N.MATHUR

Date of decision: 10/10/96

ORAL JUDGEMENT

The appellants who are original opponents No.1 and 2 in MACP No. 141/81 decided by the Motor Accident Claims Tribunal (Aux.), Surendranagar on 30.10.1982, have preferred these Appeals.

2. Deceased Govindbhai H Sinol was, at the relevant time, travelling in a jeep car bearing No. GRG 1547. The said jeep car was being driven by present respondent No.2 which was owned by the present appellant No.1, and the same was insured with appellant No.2.

3. On 9.3.1981, when the said jeep car was near Rangpur village on National Highway, dashed with a milestone. It is the case of the claimant that the driver of the jeep car, while taking turn at full speed, dashed with milestone, as a result of which the leg of the deceased was cut, head portion was crushed, and the intestine came out. The deceased succumbed to the injury while he was being taken for further treatment. There is no much dispute about the manner in which the accident took place and hence we do not discuss this aspect in detail.

4. The claim in these Appeals is limited to Rs.45,000/- only and as contended by the Insurance Company, the Tribunal has erred in applying the multiplier and awarding the amount of compensation to the claimant.

5. The claimant's case is that the deceased was aged 57 years. At the time of the accident he was earning a sum of Rs.2,000/- per month. It is also her case that the deceased was getting about Rs.300/- per month by way of freedom fighters' pension. It is further her case that the deceased had agricultural income and, for that purpose village form 7/12 has been produced at Exh.20 indicating that the land admeasuring 7 acres and 37 gunthas was their own and was in the name of the deceased and his two brothers. It is also the say of the claimant that the deceased used to get commission of 10% in the pickers business. It is also the case of the claimants that the deceased being a social worker, used to get Rs.200/- per month. By way of considerations as per mark 18/6 and 18/35, several consolation letters have been produced with a view to point out that the deceased was a high esteemed person amongst the Scheduled Castes, downtrodden people and labourers. The Tribunal however, came to the conclusion that the deceased was contributing

not less than Rs.600/- per month. In our opinion, considering the income which is indicated hereinabove, the figure arrived at by the Tribunal that the deceased was contributing Rs.600/- per month is a figure on the basis of rigid calculations. Considering the overall picture, it appears that the income would not be more than what has been calculated by the Tribunal and in any case, considering the fact that the deceased was aged about 58 years at the time of accident, if the sum of Rs.72,000/- has been awarded by the Tribunal, in our view, even if considering the contention of Mr Mehta that the multiplier applied is on a higher side, considering the income of the deceased which would come to the same figure as awarded by the Tribunal, we would not like to interfere with the award and hence these Appeals are dismissed. There shall be no order as to costs.

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